



In the Matter of

OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS,
U.S. DEPARTMENT OF LABOR

Date: December 21, 1994

Case No.: 94-OFC-13

Plaintiff

v.

PROVIDENT BANKCORP, INC.

Defendant

MEMORANDUM OF PRE-HEARING CONFERENCE

On December 21, 1994, a pre-hearing conference was held in regard to this matter in Cincinnati, Ohio. Participating in the conference were Kenneth Walton, on behalf of the U.S. Department of Labor, Lawrence J. Barty and Wilbur L. Collier on behalf of Provident Bankcorp, Inc., and the undersigned. The purpose of the conference was to determine the current status of this case and also to provide guidelines for an orderly exchange of information and a format for preparation of the documentary materials for hearing.

Based upon the content of the Administrative Complaint, it was initially agreed that the issue in this case is whether Provident Bankcorp, Inc. discriminated against minority applicants on the basis of race for both teller and general clerical positions during the years 1988 and 1989 in violation of 41 C.F.R. § 60-1, 4(a)(1). The plaintiff contends that the alleged discrimination occurred both in the selection of applicants for interviews and in the selection of interviewed applicants for hire. We also briefly discussed the remedies requested by the Department of Labor as outlined in the Administrative Complaint.

Considerable discussion was directed to the future development and potential stipulation of both documents and facts. Counsel indicated that in excess of 2,000 employment applications would be examined. I requested counsel to stipulate compilations of information as much as possible rather than including all of the application materials as documents in the record. Where it is essential that documents be admitted into the record, I requested counsel to stipulate to the fullest extent possible where authenticity is not in dispute. I will assign weight to those materials during the course of the decision writing process. Counsel was also requested to take steps to eliminate the introduction of any duplicate materials into the record. It was further indicated that the Notice of Hearing will contain specific directives as to the manner in which the documentary materials should be prepared, marked for

identification and paginated.

It also developed that both parties would be calling one or more expert witnesses in this proceeding. I advised counsel that the Notice of Hearing will require that the expert prepare an expert witness report which would in essence be used as his direct examination and that the expert would then be produced at the time of hearing for cross examination. Mr. Barty inquired as to whether depositions would be permitted of the experts following the exchange of the expert witness reports. I am amenable to following whatever procedure they desire in that regard.

I also urged counsel to give consideration to an administrative disposition of this matter. It seemed clear that neither party will be in a position to evaluate this case until such time as all of the documentary materials have been fully evaluated. Counsel indicated that consideration would be given to an administrative disposition once that evaluation occurs.

This case is not presently ready to be scheduled for hearing. Counsel are to proceed with the documentary evaluation until March 1, 1995. On that date, a joint written progress report is to be submitted to me indicating case status. The report is also to advise as to the potential for stipulation of documents and facts and also as to the progress of any settlement discussions.

Rudolf L. Jansen
Administrative Law Judge